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Special District Court Counsel for,
 KELKRIS ASSOCIATES, INC.,
 DBA CREDIT BUREAU ASSOCIATES, et al.
 See signature page for list
 of parties represented (Civil L.R. 3-4(a))

IN THE UNITED STATES DISTRICT COURT**FOR THE NORTHERN DISTRICT OF CALIFORNIA****SAN JOSE DIVISION**

ALBERTA ROSE JONES

Plaintiff,

v.

KELKRIS ASSOCIATES, INC. DBA
 CREDIT BUREAU ASSOCIATES,
 KATHRYN A. PARSON, TERRY A.
 DUREE, LINDA G. ASHCRAFT,
 MICHAEL MATTHEWS, MOES PROCESS
 SERVING, AVA E. WILLIAMS, WENDY
 A. GETTY, PATRICIA COLEMAN, JOAN
 CRAWFORD, KARL PHILLIPS, WILLIAM
 C. HARRISON, EDMUND G. BROWN JR.,
 BARBARA BOXER, UNITED STATES OF
 AMERICA AND DOES 1-100.

Defendants.

(As incorrectly captioned on the Notice of
 Removal by State Court Defendant
 Alberta Rose Jones' Notice of Removal)

Case No. C-07-04421-JW

**MOTION TO REMAND TO THE
 SUPERIOR COURT OF THE STATE OF
 CALIFORNIA, COUNTY OF SOLANO,
 AS CASE NO. FCM093334; OR, IN THE
 ALTERNATIVE, TO DISMISS**

Date: October 29, 2007
 Time: 9:00 a.m.
 Place: Federal Building
 280 South First Street
 San Jose, CA
 Courtroom 8, 4th Flr.
 Hon. James Ware

KELKRIS ASSOCIATES, INC., d.b.a. CREDIT BUREAU ASSOCIATES ("KelKris"), the actual plaintiff in the state court action that is the subject of the August 27, 2007 Notice of Removal, and other persons not parties to the removed State Court Action, incorrectly listed as defendants in the Notice of Removal, consisting of KATHRYN A. PARSONS, President of KelKris, TERRY A. DUREE and BRET YAPPLE (collectively "Movants"), who make a special appearance in this case as set forth below,

1 file this Motion to Remand to the Superior Court of the State of California, County of Solano, Case No.
2 FCM093334; and, in the Alternative, to Dismiss any new federal proceeding which Alberta Rose Jones
3 may have commenced with the filing of the Notice of Removal as follows,

4 1. Notice of Motion: Hearing on this motion will occur on October 29, 2007 at 9:00 a.m. before
5 the Honorable James Ware, United States District Judge, at 280 South First Street, San Jose, California,
6 Courtroom 8, Fourth floor.

7 2. Statement of Relief Requested: Remand of California Superior Court Case KelKris Associates,
8 Inc. DBA Credit Bureau Associates v. Alberta Rose Jones, Donald D. Jones, Case No. FCM093334, and
9 the dismissal of any new federal proceeding which Alberta Rose Jones purports to have commenced with
10 respect to each of the Movants by the filing of the Notice of Removal.

11 3. ALBERTA ROSE JONES ("Jones") and her husband Donald D. Jones are defendants in the state
12 law debt collection action filed March 15, 2006, filed by KelKris as Plaintiff in the Superior Court of
13 the State of California, County of Solano, Case No. FCM093334. True and correct copies of the
14 summons and complaint in the State Court Action are collectively attached as Exhibit "A" to the
15 Declaration of Terry A. Duree filed and incorporated herein by this reference.

16 4. Proofs of service demonstrating that Jones and Donald D. Jones were served with these
17 documents are collectively attached as Exhibit "B" to the Declaration of Terry A. Duree filed and served
18 herewith.

19 5. KelKris is a collection agency which was assigned a non-consumer obligation from the County
20 of Solano and ultimately filed the State Court Action when other collection attempts had been
21 unsuccessful.

22 6. Neither Jones, nor her husband Donald D. Jones, the only defendants in the State Court Action,
23 answered the complaint. On June 15, 2006, the Clerk of the Superior Court of California, County of
24 Solano, entered the default of Jones and Donald D. Jones. A true and correct copy of the Request for
25 Default in the State Court Action is attached as Exhibit "C" to the Declaration of Terry A. Duree filed
26 and served herewith. The proof of service, signed under penalty of perjury filed with the Request for
27 Default in the State court Action, Exhibit "C" attached to the Declaration of Terry A. Duree, stating that
28 the Request for Default was mailed to Jones and Donald D. Jones on May 25, 2006, at the same address

1 as appears on the Notice of Removal.

2 7. On June 15, 2006, a Judgment was entered by the Clerk of the Superior Court of the State of
3 California, County of Solano, for KelKris against Jones and Donald D. Jones. A true and correct copy
4 of the Judgment in the State Court Action is attached as Exhibit "D" to the Declaration of Terry A.
5 Duree filed and incorporated herein by this reference.

6 8. Abstracts of Judgment were subsequently filed in Santa Clara, Monterey, and Solano Counties,
7 true and correct copies of which are collectively attached as Exhibit "E" to the Declaration of Terry A.
8 Duree, filed and served herewith.

9 9. On July 12, 2007, a Civil Subpoena and Application and Order for Appearance and Examination
10 (Attachment-Enforcement of Judgment) of Jones, was filed with the Clerk of the Superior Court of the
11 State of California, County of Solano in connection with enforcement of the Judgment obtained by
12 KelKris in the State Court Action. True and correct copies of the Subpoena and Application are
13 collectively attached as Exhibit "F" to the Declaration of Terry A. Duree filed and served herewith. A
14 proof of service, signed under penalty of perjury, indicating that the Application and Order for
15 Appearance and Examination was personally served of Jones on July 30, 2007, appears on Application
16 and Order for Appearance and Examination.

17 10. On August 28, 2007, Jones appeared at the time and place scheduled for the Order of
18 Examination in the State Court Action. At that time, Jones advised KelKris and the State Court that she
19 was removing the State Court Action to the Federal Court and that no further proceedings could occur
20 in the State Court.

21 11. On August 27, 2007, after the entry of judgment in the State Court Action, Jones filed the Notice
22 of Removal with the United States District Court. Notwithstanding the fact that she was removing the
23 State Court Action which is captioned KelKris Associates, Inc. DBA Credit Bureau Associates v.
24 Alberta Rose Jones, Donald D. Jones, Case No. FCM093334, Jones altered the caption to incorrectly
25 list KelKris, the plaintiff in the removed State Court Action, as a defendant; list numerous persons as
26 "defendants" who are not parties to the State Court Action; and to incorrectly list Alberta Rose Jones
27 and Donald D. Jones (who has not signed the Notice of Removal) as the "plaintiffs." (Notice of
28

1 Removal, pages 1, 9),¹ as plaintiffs in the removed State Court Action. (Notice of Removal, page 1).

2 12. The filing of the Notice of Removal is both procedurally and substantively defective and
3 improper.

4 13. Kathryn A. Parsons, Terry A. Duree and Bret Yapple are not parties to the State Court Action
5 and each of these three Movants should be dismissed from any proceedings relating to the State Court
6 Action and the Notice of Removal.

7 14. Though Jones states in her Notice of Removal that she disputes having been served with the
8 compliant in the State Court Action, Jones has not availed herself of the rights and procedures available
9 under California State law to vacate a judgment if the entry of such judgment by the State court was
10 improper.

11 15. Jones' Notice of Removal includes statements concerning her civil rights, due process rights, and
12 rights under Federal Fair Debt Collection Practices Act (15 U.S.C. § 1692 et seq.), California tort laws
13 and "debt collection practices act," but contains no statements that she has sought any relief pursuant
14 to the applicable State Law when a party believes that a judgment may have been improperly entered and
15 should be vacated.

16 16. Jones has failed to timely remove the State Court Action within the 30-day time period as
17 required under 28 U.S.C. § 1446(b).

18 17. Jones Notice of Removal fails to contain a short and plain statement of the grounds in the State
19 court Complaint upon which removal may be taken to the District Court as required by 28 U.S.C.
20 §1446(a).

21 18. The Notice of Removal does not allege that removal to this District Court is based upon
22 Diversity.

23 19. In the absence of Diversity, a civil action filed in state court may properly be removed only if the
24 claims in the State Court Action are founded on a claim or right arising under the Constitution, treaties
25

26 ¹ Though the Notice of Removal purports to have been filed by Jones and her husband,
27 there is nothing in the pleadings to indicate that Jones is an attorney licensed to practice
28 law in the State of California or otherwise authorized to represent any other person in any
court action.

1 or laws of the United States as provided in 28 U.S.C. §1441(b).

2 20. The State Court Complaint, Exhibit "A" attached to the declaration of Terry A. Duree, does not
3 include any claims which are founded on a claim or right as required in 28 U.S.C. §1441.

4 21. Movants seek an order from the Court requiring that Jones pay such just costs and actual
5 expenses incurred in connection with the Notice of Removal, pursuant to 28 U.S.C. §1447(c), which
6 gives the Court such authority.

7 22. In the alternative, should the Court treat the Notice of Removal as an original action in the United
8 States District Court, the action should be dismissed pursuant to Federal Rule of Civil Procedure
9 12(b)(6),

10 a. For failure to state a claim for which relief can be granted due to Jones failure
11 to alleged sufficient facts as against any or each of the Movants in a well plead complaint for causes of
12 action founded on a claim or right arising under the Constitution, treaties or laws of the United States,
13 or

14 b. For attempting to conduct in Federal Court a post-judgment review of a judgment
15 entered by the California Superior Court in violation of the Rooker-Feldman Doctrine.

16 23. In the alternative, should the Court treat the Notice of Removal as an original action in the United
17 States District Court, the action should be dismissed pursuant to the doctrine of Federal court abstention
18 outlined by the United States Supreme Court in Younger v. Harris 401 U.S. 37 (1971).

19 WHEREFORE, Movants respectfully request that the Court remand the California State Court
20 Action KelKris Associates, Inc. DBA Credit Bureau Associates v. Alberta Rose Jones, Donald D. Jones,
21 Case No. FCM093334, back to the Solano County Superior Court, and to dismiss all and each of the
22 Movants, with the exception of KelKris, from any further proceedings in this court relating to Jones
23 Notice of Removal. Movants seek an order requiring payment by Jones of such just costs and actual
24 expenses incurred in connection with the Notice of Removal. In the alternative, should the Court
25 construe the Notice of Removal as an original action, the Movants respectfully request that the action
26 be dismissed.

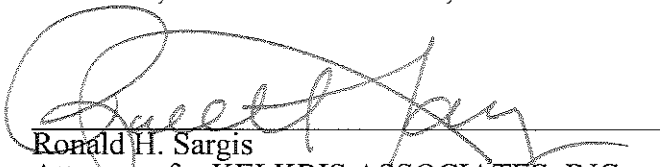
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1 Dated: 9/17/07

HEFNER, STARK & MAROIS, LLP

By


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Attorneys for KELKRIS ASSOCIATES, INC.,
DBA CREDIT BUREAU ASSOCIATES,
KATHRYN A. PARSONS, TERRY A. DUREE,
and BRET YAPPLE

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